UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1998/589
30 June 1998

ORIGINAL: ENGLISH

LETTER DATED 29 JUNE 1998 FROM THE CHARGÉ D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF CROATIA TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Upon instructions of my Government, I have the honour to enclose the text of the Programme for the Return and Accommodation of Displaced Persons, Refugees and Exiled Persons, adopted by the Croatian State Parliament on 26 June 1998 (see annex).

I would kindly request your assistance in distributing the present letter and its annex as a document of the Security Council.

(Signed) Jelena GRČIĆ POLIĆ
Chargé d'affaires

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Annex

Programme for the Return and Accommodation of Displaced Persons, Refugees and Exiled Persons, adopted by the State Parliament of Croatia on 26 June 1998

BASIC PRINCIPLES

1. The Republic of Croatia recognizes the inalienable right to return of all Croatian citizens and all categories of persons that can be regarded as refugees in accordance with the definitions of the 1951 Geneva Convention, to which the Republic of Croatia is a signatory, and the other relevant UN instruments.

2. In the elaboration, as well as the further implementation of the Program for the Return and Accommodation of Displaced Persons, Refugees and Resettled Persons (hereafter, the Program), the Government of the Republic of Croatia stands by its commitments as a result of the co-signing of the General Framework Agreement for Peace in Bosnia and Hercegovina.

All the categories of persons defined by the Geneva Convention and to whom this Program refers who have, for various reasons, left their homes, will enjoy their rights as returnees on the basis of full equality. The Government will propose to the Croatian State Parliament, in the term of 3 months, to change the existing laws which were passed in response to real needs at the time in a way that all of the different categories to whom this program refers would be equal in their status as returnees. Bilateral agreements and protocols on the return that the Government has signed with governments or entities of other countries serve as a useful instrument for encouraging return, and can in no way be used as instruments for hindering a persons right to exercise their right to return.

3. The exercise of the right to return, whether organized or spontaneous, depends exclusively upon the individual will of the person who wants to return. Therefore, return is voluntary, and should be based on a free and well informed choice. Regardless of the way of return, all returnees will receive equal treatment.

4. In connection with the exercise of the right to return, the Government reiterates its commitment to implement the constitutional right of the owner to enjoy, enter into possession and freely dispose of his property.

5. Having all this in mind, the Government has elaborated the following program in cooperation with the UN High Commission for Refugees (UNHCR), who has a leading role in the solution of the regional refugee issue, and with the support of the Organization of Security and Cooperation in Europe (OSCE):

INTRODUCTORY REMARKS

1. The return shall be guaranteed, ensured and supported by defining measures in order to remove all the obstacles to the return, especially by the creation of favorable political, economic, and legal framework for the implementation of the return.

2. The return is to be ensured and expedited by defining and ensuring the necessary organizational, security, material and other favorable conditions for return.

3. The return shall be actively supported by the Government both on central and local level and in close cooperation with UNHCR as well as the Governments of the countries of asylum.

4. At its 14 May 1998 session, the Government appointed a Commission to include:

- an Assistant Minister of Development and Reconstruction, to chair the Commission;
- the Head of the Office for Displaced Persons and Refugees (ODPR);
- the Deputy Minister of Justice;
- the Deputy Minister of Labor and Social Welfare;
- an Assistant Minister of Foreign Affairs;
- an Assistant Minister of the Interior;
- an Assistant Minister of Finance;
- a head of department at the Ministry of Public Administration;
- an advisor to the Prime Minister.

The purpose of the Commission is to devise a Program to monitor the implementation thereof, and maintain cooperation with the UNHCR in issues relative to its creation and monitoring the implementation thereof. The Commission will convene twice a month as a rule, or as necessary.

5. After the Program has been adopted by the Government and discussed by the Croatian State Parliament, the Commission identified in Point 4 above shall propose to the Government a Co-Chairman and Members of a Coordination Committee from among ministries and Government bodies that directly deal with issues of return. Together with representatives of the international community (UNHCR, OSCE, UN Representative of the Secretary General, UN Development Program, UNICEF, UN Mine Action Center), Article 11 Commission, donors and NGOs, those will constitute the said Coordination Committee to monitor the return. Once in three months, or more frequently if necessary, the Commission will inform the Committee on the return process. During the same period of time, the Committee will submit its opinions and recommendations in order to make the process of return more efficient. The Coordination Committee will help raise extra-budgetary funds to finance return.

6. The process of voluntary return, as well as the documentation required for the return in safety and dignity, shall be in accordance with the "Procedures for Individual Return of Persons who have Left the Republic of Croatia" that the Government accepted at its session of 27 April 1998, including the "Mandatory Instructions" adopted at the Government session of 14 May 1998.

7. In cooperation with the National Committee to monitor the implementation of the "Program for Re-establishment of Trust, Accelerated Return and Normalization of Life in War-Affected Areas of the Republic of Croatia", and in accordance with the aforesaid program, the Commission will help create conditions for return at the central and the local level.

8. The Government has proposed to the Croatian State Parliament to repeal the "Law on Temporary Takeover and Administration of Specified Property" and the "Law on the Lease of Apartments in the Liberated Areas" and will frame legal regulations addressing the issues stemming from the abolition of these laws. After the Government made this proposal to the Croatian State Parliament, procedures to accommodate persons under these laws have ceased to be applicable.

9. The Commission to devise, implement and monitor the Program shall coordinate the work of the housing commissions, which will be set up in the municipalities and cities of return, with the following purposes:

- to register the use of real estate;
- to issue certificates to the Commission and the ODPR on ways the property is used;
- to record and issue information on damage to housing units;
- to receive applications for the retrieval of real estate in which other persons are housed;
- to find temporary or alternative accommodation for returnees until their housing is restored through the system of reconstruction, by way of non-returnable funds for the categories I - III of damage, or by way of organized reconstruction for categories IV-VI;
- to implement the "Program for Accommodation of the Users of Property under Temporary Administration of the Republic of Croatia, which Must Be Returned for Possession and Use to the Owner";
- to provide accommodation in state-owned apartments to persons currently housed in temporarily used property;
- to cooperate with the Agency to Mediate in Transactions of Specified Real Estate (APN), with a view to simpler and more expedient purchase or exchange of property among persons who do not want to return;
- to submit reports to the Commission on the return;
- to engage in other affairs relative to the return of persons and property.

10. In cooperation with the UNHCR, the ODPR will register all applicants for repatriation outside the Republic of Croatia in order to create a database needed for planning all relevant factors of return, in accordance with the general UN principles of

return. The inclusion of any individual in the data bank is not a prerequisite for the return. In cooperation with the UNHCR, the Commission will continuously collect relevant information required for long-term planning, especially with regard to reconstruction and development of activities of the Government and its international partners.

11. The Government will provide for the security in the areas of return. On a monthly basis, the Ministry of the Interior will inform the Commission in writing on any difficulties encountered pertaining to return, which fall within its purview. The Commission and the Coordination Committee will hold public sessions, including participation of interested monitors and media, as per prior agreement. Visits to areas where objective difficulties of return may arise, will be conducted jointly, including Government representatives on the Commission and the Coordination Committee and representatives of the international community. Such visits will be followed by a joint press statement, or a joint press conference will be called as agreed.

12. In a complex process of the return, the public quality of the Commission's work, the assistance of the UNHCR, and the monitoring role of the OSCE continue to be the unquestionable forms of joint work.

PROCEDURES FOR RETURN

1. The return of persons who have Croatian documents and fall into the category of family re-union should be facilitated through the registration of their departure and return by the relevant refugee authority in the respective states. This registration is necessary for documenting and regulating the termination or receipt of corresponding status, which can entitle these persons to the right of social assistance from the Ministry of Labour and Social Welfare of the Republic of Croatia.

2. The return of those who do not have Croatian documents and fall into the category of family re-union, is regulated by the "Procedures for Individual Return of Persons who have Left the Republic of Croatia" and "Mandatory Instructions". After receiving documents, the procedure is the same as in Item 1.

3. The return of persons who have Croatian documents and whose house is vacant and inhabitable may continue their return according to the procedures already in place for the return of persons within the Republic of Croatia. The persons falling into this category report to the Housing Commission at the place of return.

4. The return of persons who do not have Croatian documents and whose house is vacant and inhabitable is defined as in Item 2. The remainder is the same as in Item 1.

5. Persons who do not own an apartment or a house in the Republic of Croatia and have Croatian documents, may choose their place of residence within the Republic of Croatia and return immediately. Like all other citizens of the Republic of Croatia without private property, they are eligible to apply for the social benefits program of the Ministry of Labor and Social Welfare of the Republic of Croatia once their return is registered and recorded at the ODPR, in order to regulate corresponding status.

In cases of persons who do not own an apartment or a house, specifically those who lived in socially owned apartments, the Commission would, where possible, endeavor to find permanent accommodation when this affects the return process.

6. Persons who do not own an apartment or a house in Croatia and do not have Croatian documents may return to the Republic of Croatia according to the procedures in Item 2. The remainder is the same as in item 5.

7. Persons with Croatian documents whose property in Croatia is devastated and in need of reconstruction may return immediately and request a decision from the respective County Office for Reconstruction. The County Office issues a decision on reconstruction within the time-span as defined by the Law on Reconstruction.

Either ODPR or Housing Commissions ensure provision of temporary accommodation to the returnee pending reconstuction, if the returnee so desires.

The Ministry of Reconstruction and Development (MDR) creates a list of individual applications and decisions for reconstruction in both groups (those in categories I-III on the national level and those in categories IV-VI on the county level). The lists shall be updated and shared with the county level authorities on a regular (monthly) basis for public information and queries, and serve to prioritize individual requests for reconstruction.

Persons within this category, whose apartment or house falls within I-III category of damage, will receive non-repayable assistance for reconstruction, according to order of request. The persons from this category, whose apartment or house falls within IV-VI category of damage, fall within the plans for reconstruction under the same conditions as all other citizens of the Republic of Croatia.

8. The return of persons who do not have Croatian documents and whose house is in need of reconstruction may return to the Republic of Croatia according to the procedures in Item 2. The remainder is the same as in Item 7.

9. Persons with Croatian documents whose property in the Republic of Croatia is used to temporarily accommodate another person, may address the Housing Commission in the municipality/city of return with a request for the return of their property. The Housing Commission informs the returning owner in writing of the status of the object within 5 days. On basis of proof of ownership the Housing Commission, within 7 days, issues a

decision annulling the temporary occupancy and requesting the temporary user to vacate the property. The Housing Commission delivers the decision in writing to the legitimate owner and the temporary user within 7 days. The decision indicates a deadline for vacating the property and the provision of alternative accommodation for the temporary user in a house or flat owned by the State.

If such alternative accommodation is lacking within the area of the municipality/city, the Housing Commission informs the Commission for the Development and Implementation of the present Program (hereafter, the Commission) and the ODPR within 5 days. The Commission shall receive all the information about the temporary user and the temporarily used property, including a request to APN and/or ODPR for priority accommodation the temporary user. The APN and/or ODPR decide upon such cases according to priority and inform directly the owner, the temporary user, the Housing Commission and the Commission.

In case that the temporary user does not vacate the property within the deadline indicated, the Housing Commission files a suit with a request for eviction of the temporary user with the Municipal Court within 7 days. The case is to be decided by the shortened procedure. The decision of the Court shall be immediately enforced. Any eventual appeal by the temporary user shall not suspend the execution of the decision of the Court and shall not delay the repossession of the property by the legitimate owner.

10. Occupancy of more that one property is illegal. Any case of illegal occupancy, be it single or multiple, whereby the occupant is using the object for any purpose other than the primary accommodation of his/her family, shall be terminated immediately. The Housing Commission issues an order for the release of these properties within 15 days upon identification of such occupancy. In case the illegal occupant refuses to release the property, the Housing Commission files a suit requesting eviction with the Municipal Court. The case is to be decided by the shortened procedure. The decision of the Court shall be immediately enforced. Any eventual appeal by a temporary user shall not suspend the execution of the decision of the Court and shall not delay the repossession of the property by the legitimate owner. The property thus vacated is restored to the legitimate owner immediately upon request; until such time, the Housing Commission is in charge of the property.

11. Persons who own an apartment or a house within the Republic of Croatia which is occupied by another person and do not have Croatian documents and want to return must first verify their citizenship according to the Procedures cited in Item 2. The reminder is the same as in Item 9 and 10.

12. The Government shall ensure the efficient and expeditious implementation of the court decisions described above. In case of delay, the Housing Commission informs the Commission of the case.

13. All categories of persons defined by the 1951 Geneva Convention as per paragraph 1 of the Basic Principles of this Program who do not have Croatian documents may return under specific ODPR authorization and upon clearance by the Ministry of Interior. Upon return, these persons will regulate their residence according to the law and may resolve their citizenship status, if they so wish, through naturalization.

14. Housing Commissions will be formed immediately upon the adoption of this Program in the municipalities/cities,town of return. The municipality/city,town mayors in areas of return appoint a 5 member commission, 2 of whom will represent the predominant minority population of the municipality. The commission is responsible for verifying ownership documents of empty houses, verifying ownership claims, composing a record of an owner's repossession of property and reporting to ODPR and the Commission within 5 days. Where decisions have to be made, they will be adopted by a majority vote with the support of at least one of the minority representatives. In the case of confirmed ownership documentation, the housing commission is obliged to allow for the undisturbed entry of the owner and the members of his/her family to the property within 5 days.

15. All persons who owned private property, apartment, or house before and after their return to the Republic of Croatia and whose speedy return of property is impossible have the right to compensation for their private property according to market conditions, which they can realize through the Agency for Mediation and Transactions of Specified Real Estate of the Government of the Republic of Croatia.

16. In order to simplify exchange of property left in Bosnia-Hercegovina (BiH) by those who are not willing to return to BiH, the Government of the Republic of Croatia shall allow opening of the offices of the BiH Commission for Real Property Claims without delay

17. The Government entitles the ODPR to organize the go-and-see visits to the areas of return in cooperation with the UNHCR and the Ministry of Interior of the Republic of Croatia. The Government will undertake a programme of mass information complementing the Programme for Re-establishment of Trust in order to facilitate this Program.

With this program, the Government of the Republic of Croatia has defined the priorities of return and will ensure the free flow of information and all other conditions of return, which are in accordance to the general principles of the return, in cooperation with UNHCR.

Following the adoption of this Program by the Government and its discussion in the croatian State parliament, Program shall commence with immediate effect.